IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.34 OF 2006

The Commissioner of Central
Excise & Customs, Nashik .. Appellant.

V/s.

M/s.Shirpur SSK Limited .. Respondent.

Mrs.S.V. Bharucha i/b. Dr.T.C. Kaushik for the appellant.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 3RD APRIL, 2006.

P.C. :

Heard Mrs.S.V. Bharucha, the learned counsel for the appellant.

2. The Tribunal in paragraph 4 of the impugned order observed thus :

> "4. Admittedly, the shortages were detected by the appellants and visiting Superintendent jointly and the appellants also deposited the duty. However, on subsequent investigation, the appellants found that chief chemist was entering more production in their records than the actual production with the sole purpose of availing production incentives. As such, the shortages detected were not real but pseudo. Criminal proceedings were lodged by the appellants against the said chief chemist. Apart from the shortages, there is no other evidence to show that the sugar bags in question have in fact been removed by the appellants without payment of duty. The appellant has already offered a plausible

> explanation in respect of the shortages. Irregularities in maintenance of records by its chief chemist cannot be made the basis for arriving at the findings of clandestine removal of goods. As such, I am of the view that confirmation of demand of duty against the appellants is not justified. The same is accordingly set aside and the appeal allowed with consequential relief to the appellants."

3. We are satisfied that the impugned order does not suffer from any legal infirmity.

4. No substantial question of law arises in this appeal. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)